

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

02-*R*-1528

**A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT
OF \$2,600.00 IN SETTLEMENT OF THE CLAIM OF ROBERT AND
MERRIMAC C. PENMAN AGAINST THE CITY OF ATLANTA**

WHEREAS, Robert and Merrimac C. Penman have filed a claim against the City of Atlanta seeking damages arising out of a sewer back up that occurred in their home on November 14, 2001; and

WHEREAS, Mr. and Mrs. Penman notified the City of the sewer back up, however, when the sewer crew arrived they determined that the sewer back up was on the Penman's property and that the City's mainline was open and running; and

WHEREAS, the Penman's hired a plumber who replaced their sewer line, however, upon completion of the installation of the new sewer line the plumber discovered that the sewer was still stopped up due to a blockage in the City's mainline; and

WHEREAS, the City sewer crew returned to the Penman's home and determined that there was in fact a collapse in the sewer line on the City's mainline that had caused the sewer to back up; and

WHEREAS, the City of Atlanta was on notice of said nuisance and yet the City failed to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimants have asserted damages in the amount of **\$2,600.00** and have agreed to accept this sum in full and complete satisfaction and settlement of their claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of **Robert and Merrimac C. Penman** be settled for the sum of **\$2,600.00**.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that **\$2,600.00** be paid by the City of Atlanta in satisfaction of any and all claims **Robert and Merrimac C. Penman** owners of property located at 1809 Walthall Drive, NW may have stemming from damages sustained to their property on November 14, 2001.

BE IT FURTHER RESOLVED that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number **2J01/529017/T31001**.